

HELENA ASSOCIATION OF REALTORS®
STATEMENT IN SUPPORT OF SB 345
SENATE LOCAL GOVERNMENT COMMITTEE
2/11/09

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 3
DATE 2.11.09
BILL NO. SB345

- The Helena Association of REALTORS® strongly supports SB345.
- The main purpose of this legislation is to strengthen public notice requirements during the zoning process and to clarify procedures that must be followed when adopting interim zoning.
- In a nutshell, we are seeking to strengthen the only protection that citizens have from over-zealous commissioners with an agenda. This bill will ensure citizens' the opportunity to knowledgeable and, on a timely basis, participate in the zoning process.
- Lewis & Clark County is a good example why current statute is vague and inadequate thus allowing abuse by local governments.
- In 2006 the Lewis & Clark County Commission decided to adopt zoning for the Helena Valley Planning Area. The zoning was successfully protested although that was disputed by county officials.
- In their zeal to zone the Helena Valley and in knowing that their misuse of zoning would be again protested, the Lewis & Clark County Commission, in May 2007, made a determination that an emergency existed in relation to contamination of groundwater. Interim zoning was then adopted that greatly restricted the type of wastewater treatment systems that would be allowed. County officials said that a protest would not be allowed although it appeared pretty clear to many that current statute allows for protest in interim zoning.
- This interim zoning even went so far as to require individuals to upgrade to Level II wastewater treatment (costing as much as \$18,000) if their existing septic system was failing. No consideration was given to the previous approvals that had been given for those existing septic systems. This was all done even though zoning laws are clearly intended for determining appropriate land uses NOT sanitary restrictions.
- The first year went by with the county doing nothing to bring a permanent resolution to the sanitation issue that was the stated basis of the emergency and the interim zoning.
- At the end of that year the county then extended the interim zoning, and in the process, amended the interim zoning to slightly lessen the sanitary restrictions.

- Imagine the feeling of all those people who had been caught in the interim zoning the previous year and been required to pay tens of thousands of dollars to upgrade to a Level II system. Only to have the commission change the requirement because the septic systems were not creating an emergency in the first place.
- Then, a few months later the commission once again amended the interim zoning to further reduce the restrictions.
- Recently, the staff person who compiled the original report that was the basis for the interim zoning publicly acknowledged that an error was made during the initial water quality analysis that **significantly** inflated the information that was used to make the determination that an emergency existed.
- Surely, you would think after the discovery of the error the County would own up to the fact that there never was an emergency and remove the interim zoning. However, that has not been the case. In fact, the County Commission has not yet given the public any indication of what they will do in regard to a permanent solution for the supposed emergency.
- Two years have gone by with no apparent effort on the part of the county to honestly deal with what they characterized as an emergency. And, if there is an effort under way by the commission the public has not been informed of it.
- Passing SB345 will remove any ability for county commissions to act on a whim, often with little or no scientific information to rely on and with no , and with little notice to affected citizens.
- Citizens should not have to rely on lawsuits to ensure their government acts appropriately. SB 345 will lessen challenges in court because citizens will be provided better opportunity to participate knowledgeably and on a timely basis.
- The statutory process for zoning is not onerous and does not need to be overly time consuming. There is absolutely nothing that prevents a county commission from initiating zoning and adopting a zoning district and regulations on a timely basis if they determine a legitimate need for land use restrictions exists. However, the intent of the legislature to provide for transparency in government as well as providing citizens ample opportunity to participate dictates that statutes regarding public notice provisions be modernized. This includes allowing a longer time period for citizens to become informed of, and be able to respond to, proposed zoning.
- It is imperative that we acknowledge that people do not rely on the newspaper to get day-old, or week-old news when they can log on to the internet and get instant reporting on events occurring all over the globe.

- Nor can we depend on individuals see an innocuous looking notice that has been stapled to a telephone pole in only two locations or even a two-inch ad placed in the classified section of the newspaper.
- The current requirements are antiquated and must be updated.
- Our world has changed and it is the responsibility of government to take greater steps in making every effort to contact affected citizens and provide adequate notice of opportunity to comment.
- Strengthening and clarifying the zoning process and increasing due process is in the best interests of the citizens.
- I urge a do pass from you on SB345.

Thank you for the opportunity to present this statement to the Committee.

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